THE PORT FOLIO
ENLARGED.

BY OLIVER OLDSCHOOL, ESQ.

"VARIOUS, THAT THE MIND
OF DESULTORY MAN, STUDIOUS OF CHANGE,
AND PLEAS'D WITH NOVELTY, MAY BE INDULGED"
COWPER.

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ORIGINAL PAPERS.

FOR THE PORT FOLIO.

THE AMERICAN LOUNGER,

BY SAMUEL SAUNTER, ESQ.

No. X.

TO SAMUEL SAUNTER, ESQ.

SIR,

TO that laziness, which the body assumes, out of complaisance to the understanding, I shall ever pay a sincere, though it be a secret homage. I have always loved that gentleness of motion, which characterises the gentleman of refined feelings, and devout thought; I have seen nothing disgraceful in that mental abandonment of Thomson and Shenstone, which the woollen-drapers of their day called indolence; but in their inactivity, as well as in your own, I discover a delicate provision of nature for an easily disturbed fancy, or a very metaphysical mind. Under these impressions, I approach you, Mr. Saunter, most respectfully; with your leave, I shall approach you frequently hereafter; my feelings make me as often the sufferer, as, by my character, I am made the subject of censure; and I revere the judgment of quiet men.

My present misfortune, sir, is a taylor, who puts me into long pantaloons and short vest, because I am too loyal to molest his dominion, and have never ordered a subtraction from the under garment, to be passed to the credit of the upper. My coat too has a strong air of the bon ton; and my boots are eminently entitled to a definition in the Columbian dictionary. Would you believe it, sir, that, because I am thus made up, the good people of the vicinage deny me even a medium of understanding, and insinuate, at times, very tauntingly, in my presence, that some people's wits are not as long as their taylor's bill? A reference upon a doubtful point of literature is never made to me, because persons of fashion are not presumed to meddle therewith. My morals are treated with unchristian contempt, because it may be, that the lateral scantiness of my coat opens a pretty extensive domain to the prince of the powers of the air. In fact, sir, Mr. Burke himself could have said no more. They imagine, that my dress is my god, the shop is my church, the counter is my altar, the pattern-book is my bible, and that I put no faith, but in my taylor.

Now, sir, as I am unwilling to wrest the shears and measure tape from their proprietors in ordinary, and yet am moved by this infatuation, let me argue with society, under the screen of your composing desk, that it is very possible for a man to dress fashionably, and yet think and do his duty with as much assiduity, as though his shoes were from the stall of Crispin, and his breeches from the wardrobe of William the conqueror.

In the course of my reading on this subject, I recollect to have met with few of the unregenerate, save Mr. Godwin, Madame Tallien, and some other admirers of the Gonoquais horde, who have stickled for absolute nudity. By reasonable folks, it has been deemed a paradisaical convenience, which answers no good purpose, among people tainted with original sin. I need not be informed, sir, that, by men of a highly devotional religion, these constraints have been thrown off, and that a sect of religionists, but a short time before the late French revolution, deeming themselves worthy of a pure, undisguised intercourse with heaven, expulsed from their society both shears and lapboard. It is a case precisely in point for my position. The *charity* of these people was their cloak, and those, who have it not, must adopt a more sensible covering. I will grant then to my traducers, that a habit of some kind is expedient to antidote the unfortunate corruption of the human heart, at least to disguise its expressions. But, after I have conceded this, where is the canon of ethics, which confers superior value on a particular cut? Who is the moralist that has ever denounced long pantaloons or trunk hose as special instruments of Ahrimanius, the Persian devil? We have been told, it is true, in the annals of every nation, of perilous hours, which tried men's souls; but in no instance has the historian thought proper to communicate to us that, thereby, were tried their *small-cloathes*, and a determinate value fixed on a specific costume: nay, I verily believe, that the only two articles of this description, which cross the annalist of America, are those of admiral Parker, and the legitimate sherry-vallies of general Lee, both of which, as to size and shape, are hopelessly and irrecoverably lost. If, therefore, good morals dwell not in the cape of a coat....if evil spirits are not addicted to short breeches or long, grey breeches or blue,....my taylor, perhaps, has not cabbaged my piety, and I may pass to the defence of my understanding.

There are but two ways of connecting a man's understanding and his pantaloons;....he is a fool, and therefore he has bought them; or he has bought them, and therefore he is a fool. Now, the first branch of this duplicate proposition is irrelevant; I have nothing to do but with the abstract, independent, virtue or worthlessness of the pantaloons; and, if the man was a fool before he bought them, the probability is, that they did not make him a fool. The pantaloons are the effect, and the man is the cause; and it is contrary to the usage of the best logicians, to attribute any prior defects in the cause, to the subsequent operation of the effect. The man then has bought them, and therefore he is a fool. It were reasoning too curiously to reason thus. If he became a fool since he bought them, there was a time between the buying and the folly, in which the fatuity was not produced; and, therefore, it was probable, that the folly was not caused by the pantaloons, or it would have appeared sooner. If he became a fool before he bought them, the pantaloons, as I have said before, have nothing to do with his case; and if he became a fool *eo instanti* that he bought them, then it was the buying, and not the folly, which disturbed his intellect, because he is granted to be a fool by the purchase, though his taylor defraud him of the article, or he never afterwards wear it, and, of course, there shall be no room for the pantaloons to operate. If you doubt this reasoning, sir, I refer myself to the authority of Mr. Godwin's Political Justice, *passim*.

But after all, Mr. Saunter, there is sense somewhere in the world; and, if this fashionable habit annihilates it, I think we shall prove, without much difficulty, that it exists nowhere. I hate, sir, to advance so egregious a truth, as that fashion is altogether relative. I am not more fashionable in my last new apparatus, than my aunt Deborah, in her stomacher of Lewis XIV, and queen Anne's stays. The difference is simply this;....in a drawing-room of the present century, I am rather more *au fait* than she, but carry us back a hundred years, and she is the greatest belle alive. The very man, who abuses my cape, is much more in the ton for 1775 than I am; and, if there be folly in the case, his, perhaps, is the least pardonable, as there has been more time for the growth of his discretion.

Does this dress consume a moment that should be given to the "*bettering of the mind?*" Do I waste as much time in saying to my taylor, *Bring me up to the present day*, as sir Special does to keep in *black letter?*" If dress induces an unprofitable expenditure of time, probably it has this effect in the shop of the taylor, or in the drawing-room; and that fashionable dress has not this effect necessarily, in either place, is a proposition scarcely to be elucidated by argument. I will adopt the notion that fashion is definite; then there can be but one garment of a kind that is fashionable, and all other garments, of that order, to an indefinite number, are unfashionable. I say to my tradesman, make me a fashionable coat; the description is perfect, and I am at liberty. I order him to produce me an unfashionable coat: does he understand me, sir? Is the cape to be cloth or shagreen? Is it to be a trapezium, or a rhombus, or an octagon? The taylor is at fault; I must bring him to the scent, by imparting that complex idea, which I intend to represent by the expression; and, if my metaphysics are dull, or my pupil is difficult of conception, it is ten to one that the coat be an abortion. My addiction to modern dress, then, wastes none of my time over the goose. But this coat must walk to the drawing-room; and why? Because it is the only kind of coat there used. Then, sir, there has never been a pistol from the shop of the gunsmith, that has not shot its man, and that too for no other reason than that pistols are commonly used in duelling. Grant, however, that such be its inevitable effect. I know, sir, that Science holds not her vigils in the drawing-room, nor can Avarice there settle the rate of his usury. I know that, within the fashionable circles, cards are more frequently unfolded than Polybius, and the mysteries of whist more devoutly reverenced than the cube root. But "dulce est dessipere in loco;" it is well to animate the mass of dry knowledge, that grows at midnight, with a little of that oil of joy, which gladdens and lubricates the evening association. It is well to supply the deficiencies of our book-wise heads, by some experience in the philosophy of life; to lu-

manize the heart in intervals of relaxation from the culture of the mind; to acquire sagacity, as well as wisdom; and to act with courtesy, as well as to reason with force. It is not true, Mr. Saunter, that the elegance of polished life is either baneful or frivolous; the vice is in the excess, not in the moderate indulgence; and, if we recollect that, from long quiescence, a passion frequently dies, and always loses its tone; that, from controuling our temper, for the moment, which we call politeness, the transition is not difficult to the habit of permanent controul, which we call philosophy; that, by frequently expressing benevolence, we at last come to feel, and then to prove it, the drawing-room, where this quiescence, this controul, and this expression are necessary, may be allowed the high merit of schooling the human heart. If my fashionable coat carries me thither, per force, I would recommend it as a very good cure to my simple, officious, and unfashionable censors.

I am, dear sir,
With much fidelity,
Your friend,

SPENCER.

MISCELLANY.

FOR THE PORT FOLIO.

LORD CHESTERFIELD, in describing to his son the fate of a new drama, says: "All the women cried, and all the men were moved." I will not pretend to doubt, that theatrical representations have had such an effect, but I certainly should doubt part of it, were I to found my opinion on the conduct and *immoveability* of the female portion of a Philadelphia audience.

Without assuming to myself any extraordinary share of sensibility, I trust that I shall be excused for censuring that stoical apathy, with which I have seen the most interesting pictures of distress gazed upon by my fair countrywomen. Heaven alone knows, whence they could have drawn the abominable faculty of steeling their hearts against feelings, which dignify men, and, without which, female beauty loses half its charms.

Who, that frequents the theatre, has not often seen men, inured to danger and distress, give themselves up to the scenic delusion, and big tears course speedily down their sun-burnt cheeks; whilst females, whose countenance bespoke gentleness and soft compassion, sat staring at the exhibition, with eyes unmoistened with a tear, or engaged with the nonsensical tittle-tattle of a coxcomb, whose only claim to notice is the impertinent arrogance with which he strives to prevent others from hearing what he cannot understand? Who has not heard the loud laugh, bespeaking vacancy of mind, break the silence with which the exquisite tones of distress of a justly favourite actress had enthralled the generality of the audience, and seen those features, which, with a tear, would be embellished beyond the power of art, moulded into a kind of stupid admiration of the undescribable follies of a fop?

It has been said, that women are greater adepts in the art of dissimulation than men. Their indifference may, of course, be affected; they may feel the sorrows of a Desdemona, or a Belvidera, or a Bertha, forcibly feel them at the heart, and yet refuse to testify it, by the tribute of a tear. This may be the case, but it is almost incredible. Do they refuse attention, because the sorrows represented may overpower them? It would then be best to call in the aid of affectation, when some impression was visible: then it would be a virtue ....now it is a disgrace.

If the ladies have any regard for the opinion of men of sense, they will despise this affectation, which, I assure them, no men approve, but fools and coxcombs. The eye of beauty shines with tenfold radiance through the pearly tear; it adds to it an irresistible lustre; and, let men differ as they will about the colour of the eye, they all agree, that the dew of compassion becomes it best, whatever its colour be; and there is nothing that they prize more highly, than a heart which can feel, and not fear to shew it.

LEANDER.

FROM THE MICROCOSM.

Majorum primis quisquis fuit ille tuorum
Aut pastor fuit, aut illud quod dicere nolo.

JUVENAL.

..... Your honour's ancient source
Was a poor shepherd's boy, or something worse.

DRYDEN.

TURNING over, the other day, some manuscripts belonging to the Griffin family, I accidentally cast my eyes on a parchment roll, carefully sealed, and inscribed "The Pedigree." Not having before considered that I was entitled to any ancestry, I began to feel an increased consequence, as I opened this sacred testimony of my being a son of Adam; and was elated or depressed, according to the titles or occupations of my grandfathers, from time immemorial.

I will not, courteous reader, detain thee with the honourable mention made of my family, by bards of old; how, for instance, one of them being inspector of the gardens to a foreign potentate, was overdosed by one Hercules, who, in the mean while, robbed an orchard of certain golden-pippins: ....how, afterwards, upon my ancestor's waking, he claimed them by right of discovery, and, in farther proof of such right, most valiantly did beat his brains about his ears. How, another being appointed guardian of a woollen manufactory, was lulled to sleep by a certain adventurer, from across the seas, who, by that means, stole his golden fleece (no impeachment on the sagacity or vigilance of my ancestor), the same spark having previously imposed on a wild and fiery bull, who kept a mighty coil, and, by putting a yoke on his neck, subjected him to his own convenience. These, reader, I say, I will not detain thee with; but, as I propose to make my after reflections on this parchment the subject of this paper, shall proceed to them without farther preamble.

Pride, says the old Castilian, is that principle, which, from a consciousness of inborn superiority, sets a man above the weaknesses of human nature; in prosperity enables him to preserve that dignity, which his situation demands; and prevents him, in adversity, from consenting to any thing, which might be derogatory to the principles of a man of honour. These, probably, or nearly these, are the ideas, not of a patriotic, but provincial bigot; but this is far from being a true definition of pride: and not only theoretical supposition, but practical observation, will daily enable us, in some measure, to controvert this reasoning. In order to reduce our inquiry as near the truth as possible, let us, by placing the arguments of opposite prejudice in equal balances, suppose, as is generally the case, that a fair and candid decision will lay in the midway between them.

Pride, says the more polished, and of consequence less prejudiced, man of the world, who has not had the honour to have been born on the other side of the Pyrenees, is a false principle of honour, seeking its gratification in the abject submission of others, and refining to extravagant punctilio and constrained resentment, that, which should only proceed from the genuine and lively emotions of the soul. It is a deformity of the mind, which subjects its possessor not only to the ridicule of all around him, but to infinite mortification on the failure of that respect, which he considers as due to his superior merit; a mortification, which, as few others view him in the same light, he must be frequently subjected to.

Though these principles are, in all respects, diametrically opposite, each of them have a specious appearance of truth. By tempering, therefore, each with the other, we are most likely to prove, whether pride is a principle to be cherished in the human heart or no. That pride, for instance, which, when moderately indulged, fires a man with a just and noble resentment for wrongs received, when carried farther degenerates into punctilio. That, which prevents a man from condescending to any thing unworthy himself, is a laudable principle; but, when any thing a degree below his expectations or wishes is interpreted into an unworthy occupation, it becomes a folly. As to the mortifications a man draws on himself, by an intemperate indulgence of this failing, it must be allowed, that the poison is, in that respect, its own antidote; and a mind so impregnated, is at least equal to supporting the ridicule which is levelled against it. Pride, in short, is of two kinds, defensive and offensive. While only defensive, it is far from being *offensive*, and serves as a sword in the scabbard, which, though harmless at the moment, protects the wearer from insult; when offensive, it is an attack on the rest of mankind, which calls for every one's exertions to repel it.

But I seem to be straying from my motto, which, as I am more particularly on the subject of family pride, calls on me to prove the descent of all our noble houses from shepherds, or what, as the poet sings, "I am ashamed to say." As, in a former paper, I invited my readers to a melancholy prospect in the terra incognita of probabilities, so will I now present them with a full as unflattering a retrospect in the terra firma of history.

Mankind are obliged to the so much talked of golden age, in no other respect than for the quantity of harmonious ditties it has produced, and the pretty allusions concerning hanging woods, purling streams, the social intercourse of man and sheep, the great conveniency which swains of those days used to experience, in their extraordinary powers of abstinence, &c. &c. which it has from time immemorial, and still continues to furnish to Arcadian garretteers. So far indeed was any age from being pre-existent to the iron, that the first crime committed by man was a violation of the express law of God; the second of that of God and nature. From that time forward, particular facts, which prove, that antideluvian is no word to be applied to any thing over religious, are too numerous to dwell on. Suffice it to say, that the history of our right worshipful grandsires, both before and since the flood, does not at all tend to strengthen the opinion of the poet.

Ætas parentum pejor avis tulit
Nos nequiores, mox daturos
Progenium vitiosiorem ....HOR.

More vicious than their father's age
Our sires begot the present race
Of actions impious, bold and base;
And yet with crimes to us unknown,
Our sons shall make the coming age their own,

FRANCIS.

The conquest, wealth, luxury, and from thence the decline of commonwealths, have, in all ages, been the theme as well of the moralist as the historian; these therefore let us pass by, and by looking back so far only as to the first population of this island, consider whether the motto is not as applicable to the family pride of a true born Briton, as that of a Roman citizen.

Notwithstanding the comfortable exertions of those ingenious gentlemen, who wish to derive us from the illustrious race of Troy, our vicinity to the continent pleads hard for our being neither more nor less than the descendants of a few ship-

wrecked fishermen; or what is worse, some light footed heroes, who preferred the chance of escaping by sea, to the certainty of hanging on shore. Nor has this stock been much mended by the exotic shoots, which have from time to time been engrafted on it: such as the Romans, our first invaders, from whom, I believe, many genealogists of the present day pretend to derive their origin; though it scarce seems probable, that a people, who had more pride of birth than any other, would have consented to forego their country and friends, in order to settle among a race of barbarians; unless, perhaps, some few, who were not in the censor's list, and therefore, in fact, no Romans, or some chance deserters, who took refuge among the natives to avoid military discipline. The Danes, a wretched band of adventurers, whose ferocity was their only distinguishing characteristic; whose only motive for forsaking their own country was poverty, and whose only view in invading Britain was plunder. The Saxons, in themselves a brave and ancient nation, but happily at that time delivered of their own ruffians, in the persons of our conquerors. Last of all the Normans, under the command of a bastard, put a finishing blow to the contentions of foreign powers, for the possession of this unhappy island; and completed a mixture of bravoes, differing in their manners and interests, each, as not being attached to one head by any principles of loyalty and affection, naturally endeavouring to advance his own partizans; and smothering that jealousy from constraint, which only waited for an opportunity to burst into a flame.

From this engaging portrait of our forefathers, a Chinese philosopher would be led to suppose, that the antiquity of a British family was its greatest stain. But so far is this from being the case, that even in this miniature picture of mankind, family pride is no inconsiderable feature; and some there are, who, though their only merit lies in a crowded vault, from that single distinction consider themselves as infinitely superior to those *men of yesterday*, whose meritorious exertions evince them to be rather ambitious of founding, than boasting a noble family. But from a probable supposition, that this extravagant principle can only have taken root in the minds of those, from whom it is impossible to eradicate it, let us proceed to that family pride, which has at first a more specious appearance, and if engrafted on notions naturally virtuous, is more likely to produce good effects; that, I mean, which boasts not so much the antiquity as eminence of its family. Even this, however, though to a noble mind it is an additional incentive to great and glorious actions, if it happens to be cherished by a wicked, or even a passive disposition, will be found to be equally ridiculous with the other.

If the good qualities of mankind were like those of cattle, hereditary, a virtuous ancestry would be the most desirable possession a man could receive from inheritance; but if experience teaches us that they so seldom are, if from the adulation, with which men of family and fortune are generally from their infancy surrounded, it is very improbable that they should be oftener virtuous, what does a man derive from a noble family; unless that by the profusion of light in the back-ground, the shade in front is more effectually exposed. To those few therefore, to those chosen few, who consider that a noble family reflects either honour or disgrace, only according to the use made of it by themselves; who reflect, that it is nothing more than a splendid burden, an additional tax on them, to add one more to the distinguished list, to them may a degree of family pride be considered as an advantage. And among those, our little world may boast of having ushered no inconsiderable share into the larger theatre of life; who have since distinguished themselves as good and great men. Nor in any other respect does a public education so much evince its superiority, as in the equitable treatment our citizens receive from each other, and which, says Dr. Moore, "often serves as an antidote against the childish, sophistical notions, with which weak or designing men endeavour to inspire them in after life."

LEVITY.

FROM THE WASHINGTON FEDERALIST.

THE 4th of March being the anniversary of Mr. Jefferson's accession to the government, a number of patriots agreed to have a dinner at Stelle's dancing-room, New-Jersey Avenue.

To this we were specially induced, by a dinner the feds had at Stelle's hotel, on the 22d of February, the birth-day of Washington.

We imitated them, or tried to, in every thing, but in one point we got the better of them; they had no chaplain, and we procured parson Austin to officiate. This sounds well in the publication, but a deal of trouble he gave us; being a crazy man, nothing would pacify him, unless he might make a set of toasts.

Giles, Randolph, and a few of us *keen fellows* made some too, but the parson flounced and bounced at such a rate, about his, that ours were rejected, and his delirious vapid things received, and be curst to 'em.

We met a few evenings after, to settle our reckoning (as Stelle would not provide us a dinner, but upon conditions we would club for beau Dawson, and a number of our loungers, who always forget to pay for themselves, and likewise the arrearages of grog at former caucuses), so we proposed to have our toasts printed, in room of the parson's; and citizen Davis of Kentucky, who reads remarkably well, read them off, with about one hundred and fifty additional '*ands*,' but all would not do, the eastern democrats said, they were too bold, 'twould not do to come out so yet. And, by a vote of one majority, the parson's toasts were carried, though I thought then, that Hana of Pennsylvania, and old Smith of Massachusetts did not understand the question, it being a *little latish in the evening*.

Now you know we republicans like publicity, so we intend our toasts shall be published, and let the sovereign people judge of them, and see if they are too bold; and, as Smith printed the parson's things, we send ours to you.

Yours, &c.

March 9, 1802. T. C.

1. Thomas Jefferson, the *lover* of the people, and *hater* of taxes.

2. Buonaparte, the *friend* of liberty, and our sister republic, France. (Music, Ca Ira.)

3. The *moon* of democracy forever, and the sun of federalism in total eclipse.

4. An eternal quietus to *debtors*, and merited destruction to *creditors*, by placing the federal judiciary under Virginia tutelage.

5. One old judge to 50,000 causes, or Virginia jurisprudence forever, as a blessing to a *free* people.

6. Our army and navy: May they continue in their present flourishing condition, the first under presidential orders of discharge, and the second under rotting orders, till general Heister gets his militia ripe to supersede both.

7. The two *necessaries* of life, *coaches* and *whisky* ....may the *mouth of labour* never be taxed for them.

8. The *pusillanimity* of our president and heads of departments, a sure pledge of peace to our country.

9. Liberty and the legislature, synonimous terms, may they never *bend* to the constitution, but the constitution always *bend* to them.

10. The state sovereignty of Virginia, one and indivisible. (Marseilles hymn, and three cheers.)

11. The national legislature, *independent*, as long as it implicitly obeys the immortal Jefferson.

(6 cheers.)

12. Our national energies, procreation not war; therefore dowse the fetters of matrimony.

(3 times, 3 cheers.)

13. *Mobs* and *invasion*, may they never be suppressed or repelled by force, but by presidential reason and philosophy.

14. *The public will*, always to be found in the president's messages.

(Song, Jefferson and Liberty, or Paddy's delight.)

15. *Aliens*, may distressed humanity, flying from the gallows, be put into office, immediately on its arrival in America. (Music, Rogue's March.)

16. The six *noes* and a *nothing*, cut and dried in the president's message, *no* army, *no* navy, *no* taxes, *no* money in the treasury, *no* credit, *no* national pride, lest we go to war, therefore may we be cautious to do nothing of which we can be proud.

(Song, the mountain in labour, or Giles's speech on the repeal of the judiciary.)

VOLUNTEERS.

By the vice-president.....St. Paul's motto, all things to all men....with honest men on the 22d of February, with r—g—s on the 4th of March.

After the vice-president had retired.

By Mr. Bradley of Vermont....Jefferson and Burr, these be thy gods, O democrats, for as for the Lord God, we *wat not* what is become of him.

By Mr. Bacon of Massachusetts.....Korah, Dathan, and Abiram, suffering patriots of old, may our lives be like theirs, but our death more fortunate.

(Music, Scots lamentation at the defeat of the rebellion.

By Mr. Giles.... My motto, candour in *pretence*, abuse in *fact*, or let me pull down, and the devil build up.

By Mr. Van Ness.....Myself, 'squire Pierpont Edwards, Mahomet, and parson Austin, great men are always deranged.....sometimes.

By G. Grainger, P. M. G.....Rare sport, or the devil to pay among deputy postmasters; I turn out, and satan appoints, but let me alone to give reasons for both; that's your sort, d—mn me!

By Levi Lincoln, A. Gen.....High treason mollified, or the mild reign of Jefferson and philosophy, that is, under plea of *not guilty*, to enter up judgment of conviction *pro confesso*,....if the accused is of the '*sect*'....

(Song, the unquenchable spark in the blacksmith's throat, or Vulcan turned dancing master.)

By citizens Stanford, Holland, Toliaferro, of Virginia, New, Brown, Hanna, Southard, Van Cortlandt, and Bailey, it being the combined efforts of their *mighty minds*, and uttered by their *mouthpiece*, Stanford.....The printer of the Aurora, Mr. Duane, as great a man, in our opinions, as Mr. Jefferson.....*Pretty near!*....

(Song, raw rum and toddy O, or bread and molasses for dinner, with J. Clopton's speech on the repeal of the judiciary, set for the bassoon, by Jo. Heister, of Pennsylvania, and Josiah Smith, of Massachusetts, and admirably performed vocally as thorough bass, by doctor Archer of Maryland, and Phanuel Bishop by way of symphony.

N. B. By this time it was eight o'clock, and we retired very sober; it is true a few of us, upon looking round to see the illumination, fell into the ditch in front of Stelle's house, but not entirely owing to *foreign influence* I reckon.

I don't know that this is all exactly fitted for the press, but I got general Samuel Smith and colo-

nel Varnum to correct the spelling, and Mr. Holland made the Latin; so I believe 'twill do.

Yours, ut stupra,

T. C.

REVIEW.

FOR THE PORT FOLIO.

LETTERS CONCERNING THE UNITED STATES OF AMERICA.

(CONCLUDED.)

"YOU know what importance ought to be attached to these denominations of political parties; and, like me, you are convinced, that they characterise neither their principles nor their conduct. *The Americans are more attached to persons than to principles.* They have always their saint or god of the day, as general Lee was wont to say; and each party has (if I may thus express myself) *its central individual.* The federalists, or aristocrats, esteem Mr. Jay, who negociated the treaty with England, as their chief; and Mr. Jefferson, known by a work against Buffon, is at the head of the democrats. The most active member of the aristocratic party is, indisputably, Mr. Hamilton, late minister of finance. He resigned this office from motives of policy, to give greater weight to his influence, which is still in vigour. The members of government are all aristocrats, except Washington alone, who has certainly in view nothing but his country's good, without attaching himself to either party; but who also is the only man of this description in America."

It is more particularly in his twelfth letter, that Mr. Bülow eulogises general Washington. He consecrates it entirely to the American hero, and describes him in a single line, by saying, that no other passion than the public good possesses his bosom.

Mr. Bülow observes, that all the rich, that is to say all the owners of property, are opposed to French democracy, which is advocated by all such as have nothing to lose. In the subsequent letters, he gives a description, as just as it is deplorable, of the corruption which reigns in the United States. He speaks of the luxury of that country, in the same style as the greater part of recent travellers have spoken of it; "but," says he, "*it is not the luxury of the fine arts.*" All that he says on this subject, the description of manners, of customs, in a word, of society in general, such as he witnessed at Philadelphia, are delightful consolations to us Europeans, who, judging from other relations, have sometimes regretted, that we could not go and take up our abode in the country of the Washingtons and the Franklins.

Let us speak more properly. The letters of Mr. Bulow do not afford consolation; on the contrary, they are calculated deeply to afflict every friend of humanity. We said before, that he treated the Americans with great severity; but, on a second perusal of his last letters, we find this epithet too lenient, and we are disposed to think, that Mr. Bulow has not always been *equitable.* He reproaches, not only the government with flagrant vices, and ascribes great misconduct to those who administer it, but he imputes manners to the governed, sometimes base, at other times atrocious. His fourteenth letter, in particular, is full of passages, of whose authenticity we would wish to doubt; at the simple perusal of which, every honest mind revolts, and is inspired with a kind of horror for the country, of which Mr. Bülow has drawn the picture.

What nation is there, it is true, among whom similar traits of character are not, unhappily, to be found, in making a compilation of their newspapers, and collecting all the traditions which keep alive the remembrance of every species of extravagance and crime? But how cruel, how painful the task! And how could Mr. Bülow find the heart to undertake it, in regard to America? It is hard to suppose, that his letters, when compiled in a volume, will not make a very powerful impression; and it is still more difficult for us to believe, that the Americans will suffer them to go unanswered.

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The ingenious and sensible author of the above review, it will be observed, concludes his remarks upon this itinerant epistler, by anticipating a reply from some spirited American, little imagining, it is presumed, that not a single copy of the work has hitherto fallen into American hands; or if, by chance, it should have reached the American shore, that the circumstance of its being written in a foreign language, should effectually lock up its contents from the public eye.

To pass sentence upon the merit or demerit of these letters, from a perusal of only a few detached sentences, which have been selected, for the sake of comment, by the editor of a literary European journal, might be doing injustice to the author. Yet, when we find the reviewer of Mr. Bülow's letters asserting, on his own judgment, that the writer has indulged himself in great severity towards the Americans, there is nothing short of christian meekness that would enjoin delicacy or forbearance towards him, *on our part.*

Some apology may be made for the saturnine complexion of mind, which engendered the strictures upon men, manners, and things, contained in these letters, from a reference to the particular period chosen by this traveller, for a visit to the United States. It was during the years 1795-6, which, of all other epochs in the annals of our country, was the most unfavourable to its reputation. Let us state the case fairly and impartially, and we shall thereby vindicate our national character from unmerited reproach, at the same time, that all proper weight will be given to just crimination. A season of domestic turbulence exhibits, to the eye of a disinterested spectator, all the darkest shades of the human character; but it would be both disingenuous and deceptive, to paint an entire picture of society, from viewing it in a single light. As well might an occasional jangle, between husband and wife, be taken as a faithful portrait of wedded life.

Mr. Bulow, a German gentleman, and a scholar, having been enamoured of the fairy tales which have been written, by some travellers, respecting the United States of America, and having studied our geography by the map, finally persuades himself to pay us a visit, and form his opinion of the country, from the testimony of his own senses. He takes passage from Hamburg for Philadelphia, and arrives here in the Autumn of 1795. He remains, we know not exactly how long, but quite long enough, by his own account, to become disgusted with his enterprize; to acquaint his friends in Europe that he shall speedily return to them; and be better satisfied with his own country, from contrasting it with America; and, before any body here knows, that we have been honoured with a visit from such a personage, on such an errand, Mr. Bulow is welcomed home again to his native land.

Whether this gentleman extended his travels beyond the limits of the state of Pennsylvania, is not to be inferred from any passage, selected by the reviewer of his letters, but as Pennsylvania, New-York, or Virginia, are sometimes used generically for the United States by foreigners, we will not undertake to affirm that Mr. Bulow, did not visit some other states in the union.

Three topics have attracted the particular animadversion of this traveller; viz. 1st. The state of political party. 2d. The rage for speculation in wild lands, which was then in its highest paroxism, all over the continent; and thirdly, The luxury of living, and the extravagance of expense, which prevailed among all ranks and classes in the community, more especially among the merchants.

It must be acknowledged that these, by turns, have been our vulnerable points, and the stranger, who knew little of our history, might be pardoned for drawing inferences from the above causes, unfavourable to our national and individual characters. These extravagances must be ascribed to their true cause; viz. the neutrality of our country, while all Europe was enveloped in a blaze of war, and when the flood-gates and sluices of wealth were scarce wide enough to admit the streams that continually flowed into the United States. This inundation it was, which turned the brains of so many among us, and overwhelmed in its progress some of our most substantial capitalists. It is of the essence of gold possessed, to increase desire for its own likeness, and our monied people waded far beyond their depth in the channel of speculation, for the sake of magnifying their heaps already in store. To many the experiment was fatal. To depict a state of tumult, confusion and turbulence, in the political history of our country, we should of all others select the period when the treaty negociated by Mr. Jay was the theme of every tongue. Unfortunately Mr. Bulow was here at that time, and he left the country some time before the violence of party animosity had subsided, on that account. No wonder we were degraded in his esteem, if he assumed the rashness and intemperance of that moment, as the standard of his general opinion.

But Mr. Bulow was, from his own confession, a disappointed man, and consequently looked at all objects with a jaundiced eye. With whom did he associate here? To whom was he addressed, and from what sources did he collect his information, with respect to public men and public measures? The conjecture might not differ very widely from truth, should we venture to say that he got his opinions and his facts from foreigners like himself, or from natives tainted with foreign partialities. There can be no scruple in affirming that both are incorrect.

The prostration of morals, both public and private, on which he dwells with great acrimony; the degeneracy of manners and the corruption of heart, which he so liberally ascribes to the people of the United States, would be sufficient, if true, to make an American blush for his country; and while we own, with shame, that some portion of the enormities imputed to us, are too often found in the catalogue of our crimes, we repel, with scorn and indignation, the *general* application of such illiberal remarks.

Our unexampled prosperity as a nation, during the last ten years, the rapid increase of wealth and population, and the successful course of a commerce that knows no limits, may have made us giddy for a season; but we would fain hope and believe, that it has not made us vicious beyond the ordinary lot of nations, in an infant age. The fervour of youth will abate, and to it, we trust, will succeed the sedateness of maturer years.

Some may be ready to ask, for what purpose has the Editor of the Port Folio hunted up these letters, and rescued them from oblivion? To such he may answer, that as a literary article, connected with the history and character of the United States, it is peculiarly entitled to notice, and the object of inserting it in an American journal, that it may be seen and known in what estimation our country is held abroad, and through what impure channels the streams of informatian relative to it, are occasionally destined to flow.

THE TRANSLATOR.

POLITICS.

FROM THE NEW-YORK EVENING POST.

AN EXAMINATION OF THE PRESIDENT'S MESSAGE, CONTINUED.

No. XIV.

In the course of the debate in the senate, much verbal criticism has been indulged; many important inferences have been attempted to be drawn from distinctions between the words *shall* and *may*. This species of discussion will not be imitated, because it is seldom very instructive or satisfactory. These terms, in particular cases, are frequently synonimous, and are imperative or permissive, directing or enabling, according to the relations, in which they stand to other words. It is, however, certain, that the arguments even from this source, greatly preponderate against the right of congress to abolish the judges.

But there has been one argument, rather of a verbal nature, upon which some stress has been laid, which shall be analized; principally to furnish a specimen of the wretched expedients to which the supporters of the repeal are driven. It is this, "The tenure of an office is not synonimous with its existence. Though congress may not annul the tenure of a judicial office, while the office itself continues, yet it does not follow that they may not destroy its existence."

The constituent parts of an office are its authorities, duties, and duration. These may be denominated the elements, of which it is composed. Together they form its *essence* or *existence**. It is impossible to separate, even in idea, the duration from the existence: The office must cease to exist, when it ceases to have duration. Let it be observed, that the word *tenure* is not used in the constitution, and that in the debate it has been substituted for duration. The words "The judges shall hold their offices during good behaviour," are equivalent to these other words; The offices of the judges shall endure or last so long as they behave well.

The conclusions from these principles are, that existence is a *whole*, which includes tenure or duration as a part; that it is impossible to annul the existence of an office, without destroying its tenure; and, consequently, that a prohibition to destroy the tenure is virtually and substantially a prohibition to abolish the office. How contemptible, then, the sophism that congress may not destroy the tenure, but may annihilate the office!

It has now been seen, that this power of annihilation is not reconcileable with the language of the constitutional instrument, and that no rule of constitutional law, which has been relied upon, will afford it support. Can it be better defended by any principle of constitutional policy?

To establish the affirmative of this question, it has been argued, that if the judges hold their offices by a title absolutely independent of the legislative will, the judicial department becomes a colossal and overbearing power, capable of degenerating into a permanent tyranny; at liberty, if audacious and corrupt enough, to render the authority of the legislature nugatory, by expounding away the laws, and to assume a despotic controul over the rights of person and property.

To this argument, which supposes the case of a palpable abuse of power, a plain and conclusive answer is, that the constitution has provided a complete safeguard in the authority of the house of representatives to impeach, of the senate to condemn. The judges are in this way amenable to the public justice for misconduct; and, upon conviction, removeable from office. In the hands of the legislature itself is placed the weapon, by which they may be put down, and the other branches of the government protected. The pretended danger, therefore, is evidently imaginary.....the security perfect!

Reverse the medal. Concede to the legislature a legal discretion to abolish the judges; where is the defence? where the security for the judicial department? There is absolutely none. This most valuable member of the government, when rightly constituted, the surest guardian of person and property, of which stability is a prime characteristic; losing at once its most essential attributes, and doomed to fluctuate with the variable tide of faction, degenerates into a disgusting mirror of all the various, malignant, and turbulent humours of party-spirit.

Let us not be deceived. The real danger is on the side of that foul and fatal doctrine, which emboldens its votaries, with daring front and unhallowed step, to enter the holy temple of justice, and pluck from their seats the venerable personages, who, under the solemn sanction of the constitution, are commissioned to officiate there; to guard that sacred compact with jealous vigilance; to dispense the laws with a steady and impartial hand; unmoved by the storms of faction, unawed by its powers, unseduced by its favours; shielding right and innocence from every attack; resisting and repressing violence from every quarter. 'Tis from the triumph of that execrable doctrine that we may have to date the downfal of our government; and with it, of the whole fabric of republican liberty. Who will have the folly to deny that the definition of despotism is the concentration of all the powers of government in one person or in one body? Who is so blind as not to see that the right of the legislature to abolish the judges at pleasure, destroys the independence of the judicial department, and swallows it up in the impetuous vortex of legislative influence? Who is so weak as to hope that the executive, deprived of so powerful an auxiliary, will long survive? What dispassionate man can withstand the conviction, that the boundaries between the departments will be thenceforth nominal; that there will be no longer more than one active and efficient department?

It is a fundamental maxim of free government, that the three great departments of power, legislative, executive, and judiciary, shall be essentially distinct and independent the one of the other. This principle, very influential in most of our state constitutions, has been particularly attended to in the constitution of the United States; which, in order to give effect to it, has adopted a precaution peculiar to itself, in the provisions that forbid the legislature to vary in any way the compensation of the president, to diminish that of a judge.

It is a principle equally sound, that though in a government like that of Great Britain, having an hereditary chief with vast prerogatives, the danger to liberty, by the predominance of one department over the other, is on the side of the executive; yet in popular forms of government, this danger is chiefly to be apprehended from the legislative branch.

The power of legislation is, in its own nature, the most comprehensive and potent of the three great subdivisions of sovereignty. It is the will of the government; it prescribes universally the rule of action, and the sanctions which are to enforce it. It creates and regulates the public force, and it commands the public purse. If deposited in an elective representative of the people, it has, in most cases, the body of the nation for its auxiliary, and generally acts with all the momentum of popular favour. In every such government, it is consequently an organ of immense strength. But when there is an hereditary chief magistrate, clothed with dazzling prerogatives and a great patronage, there is a powerful counterpoise; which, in most cases, is sufficient to preserve the equilibrium of the government; in some cases to incline the scale too much to its own side.

In governments wholly popular or representative, there is no adequate counterpoise. Confidence in the most numerous, or legislative department, and jealousy of the executive chief, form the genius of every such government. That jealousy, operating in the constitution of the executive, causes this organ to be intrinsically feeble; and withholding in the course of administration accessary means of force and influence, is, for the most part, vigilant to continue it in a state of impotence. The result is, that the legislative body, in this species of government, possesses additional resources of power and weight: while the executive is rendered much too weak for competition; almost too weak for self-defence.

A third principle, not less well founded than the other two, is that the judiciary department is naturally the weakest of the three. The sources of strength to the legislative branches have been briefly delineated. The executive, by means of its several active powers; of the dispensation of honours and emoluments, and of the direction of the public force, is evidently the second in strength. The judiciary, on the other hand, can ordain nothing. It commands neither the press nor the sword. It has scarcely any patronage. Its functions are not active but deliberative. Its main province is to declare the meaning of the laws; and in extraordinary cases it must even look up to the executive aid for the execution of its decisions. Its chief strength is in the veneration, which it is able to inspire, by the wisdom and rectitude of its judgments.

This character of the judiciary clearly indicates that it is not only the weakest of the three departments of power, but also, as it regards the security and preservation of civil liberty, by far the safest. In a conflict with the other departments, it will be happy if it can defend itself....to annoy them is beyond its power. In vain would it singly attempt enterprizes against the rights of the citizen. The other departments could quickly arrest its arm, and punish its temerity. It can only then become an effectual instrument of oppression, when it is combined with one of the more active and powerful organs; and against a combination of this sort, the true and best guard is a complete independence on each and both of them. Its dependence on either will imply and involve a subserviency to the views of the department, on which it shall depend. Its independence of both will render it a powerful check upon the others, and a precious shield to the rights of person and property. Safety, liberty, are, therefore, inseparably connected with the real and substantial independence of the courts and judges.

It is plainly to be inferred from the instrument itself, that these were governing principles in the formation of our constitution: that they were in fact so, will hereafter be proved by the contemporary exposition of persons, who must be supposed to have understood the views, with which it was framed, having been themselves members of the body that framed it. Those principles suggest the highest motives of constitutional policy against that construction, which places the existence of the judges at the mercy of the legislature. They instruct us, that to prevent a concentration of powers, *the essence of despotism*, it is essential that the departments, among which they shall be distributed, should be effectually independent of each other; and that it being impossible to reconcile this independence with a right in any one or two of them to annihilate, at discretion, the organs of the other, it is contrary to all just reasoning to imply or infer such a right. So far from its being correct, that an express interdiction is requisite to

* The remuneration or recompense is not added, because it is not properly an accessory.

deprive the legislature of the power to abolish the judges, that the very reverse is the true position. It would require a most express provision, susceptible of no other interpretation, to confer on that branch of the government an authority so dangerous to the others, in opposition to the strong presumptions, which arise from the care taken in the constitution, in conformity with the fundamental maxims of free government, to establish and preserve the reciprocal and complete independence of the respective branches, first by a separate organization of the departments, next by a precise definition of the powers of each, lastly by precautions to secure to each a permanent support.

No. XV.

IT is generally understood, that the essays, under the title of the Federalist, which were published at New-York, while the plan of our federal constitution was under the consideration of the people, were principally written by two persons*, who had been members of the convention which devised that plan, and whose names are subscribed to the instrument containing it. In these essays†, the principles advanced in the last number of this examination are particularly stated, and strongly relied upon, in defence of the proposed constitution; from which it is a natural inference, that they had influenced the views with which the plan was digested. The full force of this observation will be best perceived, by a reference to the work itself; but it will appear clearly enough from the following detached passages:

"One of the principal objections inculcated by the more respectable *adversaries* to the constitution is, its supposed violation of the political maxim, that the *legislative*, *executive*, and *judiciary* departments ought to be *separate* and *distinct*." "No *political truth* is certainly of *greater intrinsic value*, or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The *accumulation* of all power, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many; whether hereditary, self appointed, or elective, may be justly pronounced the *very definition of tyranny*‡." "Neither of the three departments ought to possess, *directly* or *indirectly*, an *overruling influence* over the others, in the administration of their respective powers." But the most difficult task is to provide some *practical security* for each, *against the invasion* of the others." "Experience assures us, that the efficacy of *parchment barriers* has been greatly overrated, and that some *more adequate defence is indispensably necessary* for the more feeble, against the more powerful members of the government. The legislative department is every where extending the sphere of its activity, and drawing all power into its impetuous vortex." "In a representative republic, where the executive magistracy is carefully limited, both in the extent and the duration of its power, and where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes, *it is against the enterprising ambition of this department, that the people ought to indulge all their jealousy, and exhaust all their precautions.*" Again, "The *tendency* of republican governments is to an *aggrandizement of the legislative, at the expense of the other departments.*"

These passages recognize, as a fundamental maxim of free government, that the three governments of power, ought to be separate and distinct; consequently that neither of them ought to be able to exercise, either directly or indirectly, an *overruling influence* over any other. They also recognize as a truth, indicated by the nature of the system, and verified by experience, that, in a representative republic, the legislative department is the "Aaron's rod" most likely to swallow up the rest, and therefore to be guarded against, with particular care and caution. And they inculcate, that parchment barriers (or the formal provisions of a constitution, designating the respective boundaries of authority) having been found ineffectual for protecting the more feeble against the more powerful members of the government, some more adequate defence, some practical security is necessary. What this was intended to be, will appear from subsequent passages:

"To what expedient shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the constitution?" "As all exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government, as that its several constituent departments may, by their mutual relations, be the means of keeping each other in their proper places."*

These passages intimate the "*practical security*" which ought to be adopted, for the preservation of the weaker against the stronger members of the government. It is so to contrive its interior structure, that the constituent organs may be able to *keep each other* in their *proper places;* an idea essentially incompatible with that of making the *existence* of one dependent on the *will* of another. It will be seen afterwards, how this structure is to be so contrived.

"In order to lay a *foundation* for that separate and distinct exercise of the different powers of government, which, to a certain extent, is admitted on all hands, to be essential to the preservation of liberty, it is evident, that each department should have a will of its own; and consequently should be so constituted, that the members of each should have *as little agency* as possible, in the appointment of the members of the others. This principle, rigorously adhered to, would require that all the appointments, for the several departments, should be drawn from the same fountain of authority, the people." But, "In the constitution of the judiciary department, it might be inexpedient to insist rigourously on the principle; first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice, which best secures these qualifications; secondly, because *the permanent tenure* by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them."

"It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate or the *judges* not independent of the legislature, in this particular, *their independence in every other* would be merely nominal." "The great security against a concentration of the several powers, in the same department, consists in giving to those, who administer each department, the *necessary constitutional means and personal motives*, to resist the encroachments of the others." "But it is not possible to give to each department an equal power of self-defence. In republican governments, the legislative authority necessarily predominates."

The means held out as proper to be employed, for enabling the several departments to keep each other in their proper places, are: 1. To give to each such an organization as will render them essentially independent of one another. 2. To secure to each a *support*, which shall not be at the discretionary disposal of any other. 3. To establish between them such *mutual relations of authority* as will make one a check upon another, and enable them reciprocally to resist encroachments, and confine one another within their proper spheres.

To accomplish the first end, it is deemed material that they should have as little agency as possible in the appointment of one another, and should all emanate directly from the same fountain of authority....the people: And that it being expedient to relax the principle, in respect to the judiciary department, with a view to a more select choice of its organs; this defect in the creation ought to be remedied by a *permanent tenure* of office; which certainly becomes nominal and nugatory, if the existence of the office rests on the pleasure of the legislature. The principle that the several organs should have as little agency as possible in the appointment of each other, is directly opposed to the claim in favour of one of a discretionary agency to destroy another. The second of the proposed ends, is designed to be effected by the provisions for fixing the compensations of the executive and judicial departments. The third, by the qualified negative of the executive, or the acts of the two houses of congress; by the right of one of these houses to accuse; of the other to try and punish the executive and judicial officers; and lastly, by the right of the judges, as interpreters of the laws, to pronounce unconstitutional acts void.

These are the means contemplated by the constitution, for maintaining the limits assigned to itself, and for enabling the respective organs of the government to keep each other in their proper places, so that they may not have it in their power to domineer the one over the other, and thereby, in effect, though not in form, to concentrate the powers in one department, overturn the government, and establish a tyranny. Unfortunate if these powerful precautions shall prove insufficient to accomplish the end, and to stem the torrent of the impostor.....INNOVATION disguised in the specious garb of *Patriotism!*

The views, which prevailed in the formation of the constitution, are further illustrated by these additional comments from the same source*.

"As liberty can have nothing to fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments; that as all the effects of such an union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence, as *permanency in office*, this quality may therefore be justly regarded as an indispensible ingredient in its constitution; and in a great measure as the citadel of the public justice, and the public security.

"The complete independence of the courts of justice is peculiarly essential in a limited constitution. Limitations can be preserved in practice no other way, than through the medium of the courts of justice to declare all acts contrary to the manifest tenor of the constitution void."

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* James Madison, now secretary of state. Alexander Hamilton, formerly secretary of the treasury.

† Particularly Nos. XLVII to LI inclusive, and Nos. LXVIII to LXXXII inclusive.

‡ No. XLVII.

* No. LI.

* No. LXXVIII.

Then follows a particular discussion of the position, that it is the right and duty of the courts to exercise such an authority; to repeat which, would swell this number to an improper size.

The essence of the argument is, that every act of a delegated authority, contrary to the tenor of the commission, under which it is exercised, is void; consequently that no legislative act, inconsistent with the constitution, can be valid. That it is not a natural presumption, that the constitution intended to make the legislative body the final and exclusive judges of their own powers; but more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the bounds assigned to its authority. That the interpretation of the laws being the peculiar province of the courts, and a constitution being in fact a fundamental law, superior in obligation to a statute, if the constitution and the statute are at variance, the former ought to prevail against the latter; the will of the people against the will of the agents; and the judges ought, in their quality of interpreters of the laws, to pronounce and adjudge the truth, namely, that the unauthorized statute is a nullity.

"Nor (continues the commentator) does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statute, stands in opposition to that of the people, declared in the constitution, the judges ought to be governed by the latter, rather than by the former. They ought to regulate their decisions by the fundamental laws, rather than by those, which are not fundamental.

"If then the courts of justice are to be considered as the bulwarks of a limited constitution, against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices."

But no proposition can be more manifest, than that this permanency of tenure must be nominal, if made defeasible at the pleasure of the legislature, and that it is ridiculous to consider it as an obstacle to encroachments of the legislative department, if this department has a discretion to vacate or abolish it directly or indirectly."

In recurring to the comments, which have been cited, it is not meant to consider them as evidence of any thing but of the views, with which the constitution was framed. After all, the instrument must speak for itself. Yet to candid minds, the co-temporary explanation of it, by men, who had had a perfect opportunity of knowing the views of its framers, must operate as a weighty collateral reason for believing the construction agreeing with this explanation to be right, rather than the opposite one. It is too cardinal a point, to admit readily the supposition, that there was misapprehension; and whatever motives may have subsequently occurred to bias the impressions of the one or the other of the purposes alluded to, the situation, in which they wrote, exempts both of an intention to misrepresent in this particular. Indeed a course of argument more accommodating to the objections of the adversaries of the constitution would probably have been preferred as most politic, if the truth, as conceived at the time, would have permitted a modification. Much trouble would have been avoided by saying, "The legislature will have a complete controul over the judges, by the discretionary power of reducing the number of those of the supreme court, and of abolishing the existing judges of the inferior courts, by the abolition of the courts themselves." But this pretension is a novelty reserved for the crooked ingenuity of after discoveries.

LUCIUS CRASSUS.

MISCELLANEOUS PARAGRAPHS.

FOR THE PORT FOLIO.

WHEN the celebrated GEORGE COLMAN was once told, that a man, whose own character was not very immaculate, had grossly abused him, he pointedly remarked, that the evil report of *some* persons was like fuller's earth, it daubs your coat for a little time, but when it is *rubbed* off, your coat is so much the cleaner.

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MILTON'S third wife had an unhappy temper, but so fine a complexion, that a French gentleman who once paid him a visit said, Monsieur Milton, your lady is like the *rose*. It may be, replied the bard with a sigh, but I am so unhappy as to be blind, and alas! have never found any thing but the *thorns*.

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A certain fribble, well know in all the polite circles, was asked by the margravine of Anspach, if he had read a new publication, of which the company were talking. No, replied he; what with the avocations of dressing and visiting, I can hardly ever find time to look into a book. I believe you, sir, said the accomplished margravine, and, taking out her pencil, instantly wrote the following lines:

Like the high Alps, the head of Clodio shows,
Tho' odd, perhaps, the simile may sound,
Without as white as its eternal snows,
Within as barren as its rocky ground.

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The Chinese are not remarkable for their *taste*, but in *imitation* they are unrivalled. As there is some difficulty in getting silk of a peculiar quality out of that country, in the piece, an Englishman, who wished to have a silk coat, requested a friend, who was going to Canton, to procure one made there; and, as a pattern for fashion and size, sent an old garment that fitted him; to which the Chinese taylor adhered so *correctly*, that he inserted a *patch* on one of the *elbows*, because the *old coat had one!*

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The following is a *new* definition. A gentleman, not much versed in literary affairs, once asked a friend, what was the meaning of *posthumous* works. Z....ds! exclaimed he, don't you know that? why they are books which a man *writes after he is dead, to be sure.*

—

A flimsy novelist, having scribbled a volume of "*Tales*" for the instruction of the Fair sex, asked a late theatrical performer with whom he was acquainted to look over his manuscript, and give him a motto from Shakespeare that would be *pat* to the purpose. It was returned with the following, written in the title page:

....." Tales, told by an idiot, full of sound and fury, signifying nothing"

—

A judge asked a man what age he was—I am eight and four-score, my lord, said he. And why not four-score and eight, says the judge? Because I was eight *before* I was *four-score*.

—

Mr. Jefferson drives like Jehu. The navy is to be suppressed, and our defence is to be abandoned to the French, according to the sage counsel of citizen Monroe, of Virginia. When the French are in possession of New-Orleans, they will be ready to come at a call, to assist Mr. Jefferson in amending our constitution, and introducing liberty and equality, as Buonaparte has done in France.

—

It seems, if that great historian Mr. Duane is to be trusted, we are soon to have a grand deistical chapel in this city. We suppose Thomas Paine will be the first incumbent, and that his sermons will be as much listened to as those of Dr. Priestley. But the deists will soon become weary of hearing sermons. Williams's deistical meeting in London, notwithstanding Dr. Franklin's recommendation, lasted only two years; the preacher having become as weary of preaching, as his congregation was of hearing.

—

We anticipate the dissolution of the federal union, as it is already virtually abolished, by the late proceedings on the judiciary bill. What is to be the fate of this wretched, this abused country, God alone knows; but the present aspect of its politics is malign and portentous.

—

The ratification of Dawson's French treaty passes without observation, and our merchants must now be content to put up with the loss of their property in favour of the great nation.

—

Our readers will see, that the Constitution, having met with a dreadful storm, on the "tempestuous sea," has at length *gone ashore*.

—

Politicians are greatly divided with respect to the use that is to be made of the mammoth cheese; whether it is to be sent as a present to Buonaparte, and on earnest of tribute from the United States, or to be divided among the *state sovereignties*, or to be devoured by Duane and Gallatin at the president's table, or preserved to posterity as a glorious monument of republicanism. It has already been the subject of several poems, and we wonder that the Rev. Mr. Leland did not preach a sermon, on occasion of its presentment. The mammoth *turbot*, that was taken at Ancona, and presented to the emperor Domitian, has been celebrated by JUVENAL, who tells us, that the Roman senate was assembled to deliberate on the mode of dressing it: and some wag at Washington has composed, by anticipation, a message or address to both houses of congress, which is much better than the real address and answer that have been published.

—

It does not appear that Buonaparte is to send any ambassador here, agreeably to the French plan, which is, as the reader may remember, to treat all nations in the same manner as they suffer themselves to be treated by the English! Otto, the Swiss, has been talked of, as being a confidant of the consul. *Fayette will not be trusted*, and the Corsican chief seems to be studious to keep all Frenchmen at a distance.

—

It is said, that judge Doddridge having once complained, that the sheriff of Huntingdon had summoned a grand jury, who were not men of *rank*, the officer at the next assizes took the hint, and presented the judge with the following high sounding pannel:

Maximilian, King of Toseland,
Henry, Prince of Godmanchester,
George, Duke of Somersham,
William, Marquis of Stukely,
Edmond, Earl of Hartford,
Richard, Baron of Bythorn,
Stephen, Pope of Newton,
Stephen, Cardinal of Kimbolton,
Humphrey, Bishop of Bugden,
Robert, Lord of Waresley,
Robert, Knight of Warwick,
William, Abbot of Stukely,
William, Dean of Old Weston,
John, Archdeacon of Paxton,
Peter, Squire of Easton,
Edward, Friar of Ellington,
Henry, Monk of Stukely,
Thomas, Gentleman of Spaldwick,
George, Priest of Graffham.

ORIGINAL POETRY.

FOR THE PORT FOLIO.

REFLECTIONS OF MR. JEFFERSON,

OVER THE MAMMOTH CHEESE.

YE men of Cheshire, little did ye know,
When urg'd by love, this ponderous gift you sent,
That on this heart you struck a sick'ning blow,
And gave a thousand damning feelings vent.

In this great cheese I see myself pourtray'd,
My life and fortunes in this useless mass,
I curse the hands, by which the thing was made,
To them a cheese, to me a looking-glass.

Once I was pure.....Alas! that happy hour,
E'en as the milk, from which this monster came,
Till turn'd, by philosophic rennet, sour,
I barter'd virtue for an empty name.

Then *press'd* by doctrines from the Gallic school,
A harden'd mass of nameless stuff I stood,
Where crude confusion mingles without rule,
And countless seeds of foul corruption bud.

E'en the round form this work of art displays,
Marks the uncertain, endless path I tread,
Where truth is lost in falsehood's dreary maze,
And vice in circles whirls the giddy head.

Delusive view! where light is cast aside,
And principles surrender'd for *mere words*,
Ah me! how lost to just and noble pride,
I am indeed become a *man of curds*.

Like to this cheese, my outside, smooth and sound,
Presents an aspect kind and lasting too;
When nought but rotteness within is found,
And all my seeming rests on nothing true.

Fair to the view, I catch admiring eyes,
The nation wonders, and the world applaud,
When spread beyond my *just and nat'ral size*,
I seem to them an earthly demigod.

But midst this shew of greatness and of ease,
Ten thousand vermin gnaw this wretched heart,
Just as they feed upon this mammoth cheese,
And I and they can never, never part.

Go, hated Mentor, blast no more my sight,
I would forget myself, and heaven defy,
Inur'd to darkness, I detest the light,
Would be a suicide, *but dare not die*.

SELECTED POETRY.

[In a London magazine, we find the following *original* poem, replete with good sense, and recommended by a graceful ease of expression. The author was a rational epicurean, and his system of life nearly resembles that of busy indolence in "The Spleen." This ballad is very old, but its independent spirit is "ever fair and ever young." The propriety of the sixth stanza, the spirit of the seventh, and the lofty dignity of the last but one, will excite every generous bosom.]

CARELESS CONTENT.

I AM content, I do not care,
Wag as it will the world for me;
When fuss and fret was all my fare,
I got no ground as I could see;
So, when away my caring went,
I counted cost and was content.

With more of thanks, and less of thought,
I strive to make my matters meet;
To seek what ancient sages sought,
Physic and food, in sour and sweet;
To take what passes in good part;
And keep the hiccups from the heart.

With good and gentle-humour'd hearts,
I choose to chat where'er I come;
Whate'er the subject be that starts;
But if I get among the glum,
I hold my tongue, to tell the troth,
And keep my breath to cool my broth.

For chance or change of peace or pain;
For Fortune's favour or her frown;
For lack or glut, for loss or gain,
I never dodge, nor up nor down:
But swing what way the ship shall swim,
Or tack about with equal trim.

I suit not where I shall not speed,
Nor *trace the turn of every tide*;
If simple sense will not succeed,
I make no bustling but abide:
For shining wealth, or scaring woe,
I force no friend, I fear no foe.

Of ups and downs, of ins and outs,
Of they're i' the wrong, and we're i' the right,
I shun the rancours and the routs;
And wishing well to every wight,
Whatever turn the matter takes,
I deem it all but ducks and drakes.

With whom I feast I do not fawn,
Nor, if the folks should flout me, faint;
If wonted welcome be withdrawn,
I cook no kind of a complaint:
With none dispos'd to disagree,
But like them best, who best like me.

Not that I rate myself the rule
How all my betters should behave;
But fame shall find me no man's fool,
Nor to a set of men a slave;
I love a friendship free and frank,
And hate to hang upon a hank.

Fond of a true and trusty tie,
I never lose where'er I link;
Tho' if a business budges by,
I talk thereon just as I think:
My WORD, my WORK, my HEART, my HAND,
Still *on a side together stand*.

If names or notions make a noise,
Whatever hap the question hath,
The point impartially I poise,
And read and write, but without wrath;
For should I burn and break my brains,
Pray, who will pay me for my pains?

I love my neighbour as myself,
Myself like him too, by his leave;
Nor to his pleasure, power, or pelf,
Came I to crouch, as I conceive:
Dame Nature doubtless has design'd
A man the monarch of his mind.

Now taste and try this temper, sirs,
Mood it and brood it in your breast;
Or if ye ween, for wordly stirs,
That man does right to mar his rest,
Let me be deft and debonnair,
I am content, I do not care.

[The following is a satire against *European* indecency, and is republished here merely to show our comparative purity.]

Says the Frenchman, who writes upon dresses, I know
Ever since mother Eve had a fall,
Our grandmothers always left something to shew,
But the ladies of Paris shew all!

In beauty there's something to hide and reveal,
There's a thing that we decency call;
The ladies of London may shew a great deal,
But the ladies of Paris shew all!

The taste of the men we all know to be such,
That exposing will appetites pall;
Low tuckers, I think, is displaying too much,
But the ladies of Paris shew all!

Dear girls, while your faces enrapture each heart,
Complain not your power's too small;
In contemplating graces we're charm'd with a part,
But the ladies of Paris shew all!

My Chloe was worshipp'd wherever she came,
Her shape was so tastefully small;
Her ANKLE has set all my blood in a flame,
But the ladies of Paris shew all!

The tip of the elbow, below the white cuff,
Has made my heart dance at a ball;
To shew us a few things is pleasant enough,
But the ladies of Paris shew all!

If you wish to enchant us, this lesson should strike,
All the black, brown, and fair, short or tall,
Be contented with shewing us all that we like,
But for God's sake, my dears, don't shew all.

NEMO.

MR. OLDSCHOOL,

If some of our *public characters* would peruse attentively the following mode of catching *gulls*, so facetiously described by Peter Pindar, I am inclined to believe they might derive from it a very good hint.

Yours, &c.

B——t.

Philadelphia, January 29th, 1802.

READER, do'st know the mode of catching gulls?
If not, I will inform thee.....Take a board,
And place a fish upon it for the fools,
A sprat, or any fish by gulls ador'd:

Those birds, who love a lofty flight,
And sometimes bid the sun good night,
Spying the glittering bait that floats below,
Sans ceremonie, down they rush,
(For gulls have got no manners) down they push,
And what's the pretty consequence I trow?
They strike their gentle jobbernowls of lead
Plump on the board.....then lie like boobies dead.

Reader thou need'st not beat thy brains about,
To make so plain an application out:
There's many an *acting* puppy, take my word,
Who knocks his silly head against a *board*,
That might have help'd the state.....made a good jailor
A nightman, or a tolerable tailor.

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